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MARK ELLIOTT,
Plaintiff.
v.
ADNOWLEDGE, INC.,
Defendant.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Case No. [10-cv-01495-JSW](#) (JCS)

**NOTICE OF SETTLEMENT
CONFERENCE AND SETTLEMENT
CONFERENCE ORDER**

Re: Dkt. No. 93

TO ALL PARTIES AND COUNSEL OF RECORD:

The above matter was referred to Magistrate Judge Joseph C. Spero for settlement purposes.

You are hereby notified that a Settlement Conference is scheduled for **February 18, 2014**, **at 9:30 a.m.**¹, in Courtroom G, 15th Floor, Federal Building, 450 Golden Gate Avenue, San Francisco, California 94102.

It is the responsibility of counsel to ensure that whatever discovery is needed for all sides to evaluate the case for settlement purposes is completed by the date of the Settlement Conference. Counsel shall cooperate in providing discovery informally and expeditiously.

Lead trial counsel shall appear at the Settlement Conference with the parties. Any party who is not a natural person shall be represented by the person(s) with **unlimited** authority to negotiate a settlement. A person who needs to call another person not present before agreeing to any settlement does not have full authority. If a party is a governmental entity, its governing body

¹ This will be a half day settlement conference from 9:30 AM to Noon.

1 shall designate one of its members or a senior executive to appear at the Settlement Conference
2 with authority to participate in the Settlement Conference and, if a tentative settlement agreement
3 is reached, to recommend the agreement to the governmental entity for its approval. An insured
4 party shall appear with a representative of the carrier with full authority to negotiate up to the
5 limits of coverage. Personal attendance of a party representative will rarely be excused by the
6 Court, and then only upon separate written application demonstrating substantial hardship served
7 on opposing counsel and lodged as early as the basis for the hardship is known but no later than
8 the Settlement Conference Statement.

9 **Each party shall prepare a Settlement Conference Statement, which must be**
10 **LODGED with the undersigned's Chambers (NOT electronically filed) no later than**
11 **fourteen (14) calendar days prior to the conference.** Please 3-hole punch the document at the
12 left side.

13 **Each party shall also submit their Settlement Conference Statement in .pdf format**
14 **and email their statement to JCSPO@cand.uscourts.gov.**

15 The Settlement Conference Statement need not be served on opposing counsel. The
16 parties are encouraged, however, to exchange Settlement Conference Statements. If Settlement
17 Conference Statements are exchanged, any party may submit an additional confidential settlement
18 letter to the Court not to exceed three (3) pages. The contents of this confidential settlement letter
19 will not be disclosed to the other parties.

20 The Settlement Conference Statement shall not exceed ten (10) pages of text and twenty
21 (20) pages of exhibits and shall include the following:

- 22 1. A brief statement of the facts of the case.
- 23 2. A brief statement of the claims and defenses including, but not limited to, statutory
24 or other grounds upon which the claims are founded, and a **candid** evaluation of
25 the parties' likelihood of prevailing on the claims and defenses. The more candid
26 the parties are, the more productive the conference will be.
- 27 3. A list of the key facts in dispute and a brief statement of the **specific** evidence
28 relevant to a determination of those facts.

1 4. A summary of the proceedings to date and any pending motions.

2 5. An estimate of the cost and time to be expended for further discovery, pretrial and

3 trial.

4 6. The relief sought, including an itemization of damages.

5 7. The party's position on settlement, including present demands and offers and a

6 history of past settlement discussions. The Court's time can best be used to assist

7 the parties in completing their negotiations, not in starting them. Accordingly,

8 Plaintiff(s) must serve a demand in writing no later than fourteen (14) days before

9 the conference and Defendant(s) must respond in writing no later than eight (8)

10 days before the conference. The parties are urged to carefully evaluate their case

11 before taking a settlement position since extreme positions hinder the settlement

12 process.

12 Settlement Conference Statements **may** be submitted on CD-ROM with hypertext links to

13 exhibits. Otherwise, the portion of exhibits on which the party relies shall be highlighted.

14 It is not unusual for the conference to last three (3) or more hours. Parties are encouraged

15 to participate and frankly discuss their case. Statements they make during the conference will not

16 be admissible at trial in the event the case does not settle. The parties should be prepared to

17 discuss such issues as:

18 1. Their settlement objectives.

19 2. Any impediments to settlement they perceive.

20 3. Whether they have enough information to discuss settlement. If not, what

21 additional information is needed?

22 4. The possibility of a creative resolution of the dispute.

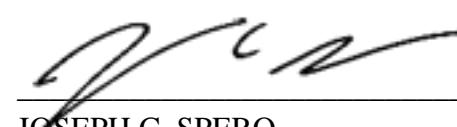
23 The parties shall notify Chambers immediately at (415) 522-3691 if this case settles prior

24 to the date set for Settlement Conference. Counsel shall provide a copy of this order to each party

25 who will participate in the conference.

1 **IT IS SO ORDERED.**

2 Dated: January 22, 2014

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4 JOSEPH C. SPERO
United States Magistrate Judge

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United States District Court
Northern District of California